

**EL DORADO COUNTY PLANNING AND BUILDING  
DEPARTMENT  
ZONING ADMINISTRATOR  
STAFF REPORT**



<b>Agenda of:</b>	February 6, 2019
<b>Item No.:</b>	4.a.
<b>Staff:</b>	Melanie Shasha

**VARIANCE**

**FILE NUMBER:** V18-0006/Artinian

**APPLICANT:** Michael Artinian/Glenn Artinian

**REQUEST:** A variance request to allow a reduction in the front yard setback from 20 feet to 7.5 feet to allow an unpermitted addition and a portion of the deck to remain. The dwelling addition is 20 feet by 7.5 feet and the front deck is proposed to be 20 feet by 5 feet.

**LOCATION:** South side of Sutter Trail, approximately 3,000 feet south of the intersection between Pioneer Trail and High Meadow Trail, in the South Lake Tahoe area, Supervisorial District 5. (Exhibit A)

**APN:** 025-743-12 (Exhibit B)

**ACREAGE:** 8,000 square feet (Exhibit F)

**GENERAL PLAN:** Area Plan (AP) / Tahoe Regional Plan Area Statement Montgomery Estates (Exhibit D)

**ZONING:** Single-unit Residential, Tahoe Overlay (R1) (Exhibit E)

**ENVIRONMENTAL DOCUMENT:** Categorically Exempt pursuant to Section 15305(a) of the CEQA Guidelines

**RECOMMENDATION:** Staff recommends that the Zoning Administrator take the following actions:

1. Find that the project is Categorical Exempt pursuant to CEQA Guidelines Section 15305(a); and
2. Approve Variance V18-0006 based on the Findings, and subject to the Conditions of Approval as presented.

## STAFF ANALYSIS

**Project Description:** The applicant is requesting a Variance to reduce the front yard setback from 20 feet to 7.5 feet to allow an unpermitted addition and a portion of the deck to remain in place. The dwelling addition is 20 feet wide by 7.5 feet into the setback; and the front deck is proposed at 20 feet wide by 5 feet into the setback. The proposed reduction of 4.5 feet from the front deck will be removed from the 9.5 foot deep existing deck. The setback is measured from the edge of the property line. The County Maintained Right-of-Way is 9.5 feet from the property line. The total distance from the edge of the proposed deck to the edge of Sutter Trail is 17 feet.

**Site Description:** The property is located within the Lake Tahoe Basin, on Sutter Trail within Montgomery Estates Unit #4, lot 856 and within the Montgomery Estates TRPA Plan Area Statement. There is an existing single-family residence on the property with associated landscape features. A mixture of native and non-native vegetation exists on the site. The entire parcel is relatively flat with slopes of about 1 percent. (Exhibit H)

**Discussion:** The unpermitted addition was formerly a front deck which was converted to dwelling space sometime after 1977. A Complete Site Assessment was completed on October 11, 2017 by the El Dorado County Building Services. The results of the site assessment will remain unchanged and no change in verified coverage is a part of this variance. (Exhibit G)

The Montgomery Estates subdivision is developed with single-family residences and accessory structures. The proposed architectural design of the existing addition with deck above and reduced size of the front deck, the exterior materials and finishes, and other architectural details are to match the existing single family home. Existing pines trees and native/adapted shrubs provide screening from the County Maintained ROW. The proposed developments will be complementary to the visual character of the property.

The permitting of the proposed variance to allow the existing addition to remain in the front yard at a setback of 7.5 feet is not anticipated to negatively impact other uses in the project area. The Transportation Division reviewed the project and does not have concerns with the variance.

**Tahoe Regional Planning Agency (TRPA):** TRPA approval will be required to permit the existing addition and proposed reduced front deck.

**South Tahoe Public Utility District (STPUD):** STPUD provides water and wastewater collection services to the project area. The developer shall contact STPUD to apply for any applicable permits and to review any utility work to be performed.

**Zoning:** The subject parcel is zoned Single-unit Residential (R1), which allows single-family detached dwellings, and accessory uses and structures. With the exception of the proposed setback variance, the construction of the addition and front deck would be permitted by right in the R1 zone district.

**Variance Findings:** The granting of a Variance requires four findings pursuant to Section 130.52.070 of the County Code. These findings for approval and their respective discussions are provided following this report.

## **ENVIRONMENTAL REVIEW**

This project is Categorically Exempt from the requirements of California Environmental Quality Act (CEQA) pursuant to Section 15305(a) that allows minor alterations in land use limitations in areas with an average slope of less than 20%, which do not result in any changes in land use or density, including but not limited to: minor lot line adjustments, side yard, and set back variances not resulting in the creation of any new parcel. The front porch conversion to dwelling space and front deck are proposed to be constructed in the least sensitive areas of the property and impacts to the environment are not anticipated to occur with the approval of a Variance. No further environmental analysis is necessary.

A \$50.00 administration fee is required by the County Recorder to file the Notice of Exemption. This fee shall be made payable to El Dorado County and shall be submitted to Planning Services upon project approval.

## **SUPPORT INFORMATION**

### **Attachments to Staff Report:**

Findings  
Conditions of Approval

Exhibit A.....Location Map  
Exhibit B.....Assessor's Parcel Map  
Exhibit C.....Subdivision Map D-057B  
Exhibit D.....General Plan Land Use Map  
Exhibit E.....Zoning Map  
Exhibit F.....Site Plan  
Exhibit G.....Site Assessment Site Plan  
Exhibit H.....Photo of Existing House  
Exhibit I.....Proposed Front Deck

# FINDINGS

## V18-0006/Artinian Zoning Administrator/February 6, 2019

### 1.0 CEQA FINDINGS

- 1.1 The modification of the structural setback is found to be Categorical Exempt from CEQA pursuant to Section 15305(a) that allows minor alterations in land use limitations through a Variance. There is no reasonable possibility that the location of the detached garage within the front yard setback will have a significant effect on the environment due to unusual circumstances.
- 1.2 The documents and other materials which constitute the record of proceedings upon which this decision is based are in the custody of the Community Development Services, Planning and Building Department, at 2850 Fairlane Court, Placerville, CA.

### 2.0 VARIANCE FINDINGS

- 2.1 **There are exceptional or extraordinary circumstances or conditions applying to the land, building, or use referred to in the application, which circumstances or conditions do not apply generally to land, buildings or uses in the vicinity and the same zone, and have not resulted from any act of the owner or applicant.**

Several factors limit building additions to this property including the position of the existing home on the property and the coverage limits placed on the property by the TRPA Code of Ordinances. If the addition were to be developed at the standard 20 foot setback, the existing house would have to be demolished and rebuilt. This would require significantly increased excavation and environmental impacts. The Site Assessment has confirmed that there is no remaining potential land coverage available on the lot, thus relocation or redevelopment of existing coverage is the only remaining solution (Exhibit G). Staff has determined that the variance is the minimum necessary for the reasonable use of the land as there are no other suitable locations on the subject parcel that would allow for a front entry addition to be developed consistent with the TRPA land coverage requirements. Other areas such as between the garage and the house are not feasible because the area has already been developed and the structures are joined. Due to significant constraints on the property as it relates to sediment disturbance and existing development, it can be found that there are exceptional or extraordinary circumstances or conditions applying to the land, building or use referred to in this application, and that these circumstances have not resulted from any act of the owner or applicant. Accordingly, Finding 2.1 can be made.

- 2.2 **The strict application of the zoning regulations as they apply to the subject property would deprive the subject property of the privileges enjoyed by other property in the vicinity and the same zone (California Government Code Section 65906).**

Allowing the reduced front yard setbacks for the expansion of the existing residential structure would not impact adjoining properties nor the right of way of Sutter Trail. By requiring the applicant to relocate the front addition in accordance with the building setbacks of the Single-unit Residential Zone District, the strict application of the provisions of the ordinance would deprive the applicant of the reasonable use of the land or building allowed for by other land in the vicinity and the same zone, and therefore, Finding 2.2 can be made.

**2.3 The variance granted shall not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such property is situated (California Government Code Section 65906).**

The area directly within the front yard setback would allow for the remaining development consisting of the unpermitted addition and proposed reduced deck with minimal fill into the existing slope and reducing the amount of new grading by allowing these structures to remain. Additionally, the existing and proposed on-site development, to include the reduced front deck, brings the parcel more into conformance with TRPA coverage requirements. This falls within the maximum coverage limits for the property of 2,011 square feet of verified existing coverage by the TRPA (Bailey Class 5 designation). As such, granting the variance request would not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which the property is situated. Therefore, Finding 2.3 can be made.

**2.4 The granting of the Variance is compatible with the maps, objectives, policies, programs, and general land uses specified in the General Plan and any applicable specific plan, and not detrimental to the public health, safety, and welfare or injurious to the neighborhood.**

The project was distributed to all applicable responsible agencies, and no comments were received to prevent approval of the Variance. The proposed Variance allowing a reduction in the front yard setback is compatible with the maps, objectives, policies, programs, and general land uses specified in the General Plan and any applicable specific plan and will not impact the public health, safety, and welfare, nor will it be injurious to the other residential uses in the project area. Finding 2.4 can be made.

# CONDITIONS OF APPROVAL

**V18-0006/Artinian  
Zoning Administrator/February 6, 2019**

**Conditions of Approval:**

1. This Variance approval is based upon and limited to compliance with the project description and following exhibits:

Exhibit F.....Site Plan

Any deviations from the project description, exhibits, or Conditions of Approval set forth below shall be reviewed and approved by the County for conformity with this approval. Deviations may require approved changes to the permit and/or further environmental review. Deviations without the above described approval will constitute a violation of permit approval.

The project description is as follows:

Variance to allow for the retention of the dwelling addition and deck, to match the architectural features of the existing single family dwelling, with a reduced front yard setback from 20 feet to 7.5 feet.

The grading, development, use, and maintenance of the property, the size, shape, arrangement, and location of structures, parking areas and landscape areas, and the protection and preservation of resources shall conform to the project description above and the hearing exhibits and conditions of approval below. The property and any portions thereof shall be sold, leased, or financed in compliance with this project description and the approved hearing exhibits and conditions of approval hereto. All plans must be submitted for review and approval and shall be implemented as approved by the County.

2. **Project Modifications:** Building design and building placement shall be completed in conformance with the plans submitted and in conformance with the Conditions of Approval herein. Minor variations are allowed, however, any major changes in the design of buildings, location of buildings, access ways, and parking shall require Planning Services review and approval.
3. **Condition Compliance:** Prior to issuance of certificate of occupancy of a building permit or commencement of any use authorized by this permit the applicant shall provide a written description, together with appropriate documentation, showing conformance of the project with each condition imposed as part of the project approval.
4. **Notice of Exemption Fee:** A \$50.00 administration fee is required by the County Recorder to file the Notice of Exemption. This fee shall be made payable to El Dorado County and shall be submitted to Planning Services upon project approval.

5. **Permit Implementation:** Pursuant to Zoning Ordinance Section 130.54.060, implementation of the project must occur within 24 months of approval of this Variance, otherwise the permit becomes null and void. It is the responsibility of the applicant to monitor the time limit and make diligent progress toward implementation of the project and compliance with conditions of approval.
  
6. **Hold Harmless Agreement:** In the event of any legal action instituted by a third party challenging the validity of any provision of this approval, the developer and landowner agree to be responsible for the costs of defending such suit and shall hold County harmless from any legal fees or costs County may incur as a result of such action.

The applicant shall defend, indemnify, and hold harmless El Dorado County and its agents, officers, and employees from any claim, action, or proceeding against El Dorado County or its agents, officers, or employees to attack, set aside, void, or annul an approval by El Dorado County. County shall notify the applicant of any claim, action, or proceeding and County will cooperate fully in the defense.